

REMARKS

Applicant respectfully requests entry of the remarks submitted herein. Claims 1-13 are currently pending and claims 14-24 are withdrawn. Reconsideration of the pending application is respectfully requested.

Response to Restriction Requirement

Applicant hereby affirms the telephone election on September 28, 2005 of Group I, claims 1-13.

The 35 U.S.C. §102 Rejections

Claims 1-6, 9, 10, and 13 stand rejected under 35 U.S.C. §102(b) as being anticipated by Huber et al. (U.S. Patent No. 5,066,529). The Examiner asserted that Huber et al. discloses a camouflage wrapping tape that may be made from a stretchy material which can wrap irregular surfaces. The Huber et al. patent refers to U.S. Patent No. 3,575,782 ('the '782 patent'), which, according to the Examiner, discloses a self-adherent web that sticks to itself and not to the object to which it is applied. This rejection is respectfully traversed.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Huber et al. teaches the use of a tape. Huber et al. states that a "particularly preferred material for the tape itself is the elastic shirred web material described in U.S. Pat. No. 3,575,782" (see column 2, lines 59-61) and that a camouflage pattern was printed on "the *non-adhesive* surface of the web" (emphasis added; see column 3, lines 8-12). Although it is apparent that the '782 patent discloses at least one material that can be classified as a self-adherent wrap, the material onto which Huber et al. applied a camouflage pattern had an adhesive surface and was, therefore, not a self-adherent wrap as required by the pending claims.

Huber et al. does not anticipate the claimed invention, and Applicant respectfully requests that the rejection of claims 1-6, 9, 10, and 13 under 35 U.S.C. §102(b) be withdrawn.

Claims 1-6, 9, 10, and 13 stand rejected under 35 U.S.C. §102(e) as being anticipated by Mullis (U.S. Publication No. 2002/0083507). The Examiner asserted that Mullis discloses a wrap having a camouflage pattern on one side that is made from elastic material or that has elastic ends to keep the wrap in place without requiring fasteners. This rejection is respectfully traversed.

Mullis discloses an arm band having a tubular shape with circularly elastic ends to hold the arm band in place. The arm band of Mullis is to provide a hunter with more hunter orange, and the camouflage side is only an alternative choice for a hunter. The arm band of Mullis is not self-adherent and Mullis does not teach or suggest a self-adherent wrap. In view of the remarks herein, Applicant respectfully requests the rejection of claims 1-6, 9, 10, and 13 under 35 U.S.C. §102(e) be withdrawn.

The 35 U.S.C. §103 Rejections

Claim 11 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Huber et al. or Mullis in view of Lee (U.S. Patent No. 4,792,471) or Crawford (U.S. Patent No. 4,517,230). Claims 7 and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Huber et al in view of Bylund et al. (U.S. Patent No. 5,486,385). Claim 12 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Huber et al. in view of Hamilton (U.S. Patent No. 5,010,589). Huber et al. and Mullis are discussed above. The Examiner asserted that both Lee and Crawford disclose a three-dimensional camouflage effect; that Bylund et al. discloses material having two different camouflage patterns; and that Hamilton discloses that hunters use scents applied to their clothing to attract animals. Applicant respectfully traverses these rejections.

“To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). Further, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430

(Fed. Cir. 1990). MPEP §2142 teaches that “impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.”

As discussed above, Huber et al. teaches a camouflage tape (i.e., having an adhesive surface) and Mullis teaches an arm band having elastic ends. Neither Huber et al. nor Mullis teach or suggest a self-adherent wrap. Lee and Crawford both teach an intricate covering that includes artificial leaves and foliage, and neither reference teaches or suggests a self-adherent wrap. Bylund et al. discloses a melted and delustered camouflaged fabric. The particular method of melting and delustering disclosed by Bylund et al. gives the fabric a three-dimensional appearance. Hamilton discloses a removable fringe for clothing that can be scented or contain lures.

None of the cited references, alone or in combination, teach or suggest the desirability of a camouflage self-adherent wrap (see, for example, page 3, lines 13-15 and page 5, line 17 – page 6, line 18 of the specification for representative examples of the desirability of the claimed composition). The claimed invention is not obvious in view of the cited references, and the Examiner has not presented a convincing line of reasoning as to why the claimed invention is obvious. In view of the remarks herein, Applicant respectfully requests that the rejection of claim 7, 8, 11, and 12 under 35 U.S.C. §103(a) be withdrawn.

Request for Rejoinder

Claims 14-24 were withdrawn as directed to non-elected inventions following Restriction and the September 28, 2005 telephone election. The claims of Group II (claims 14-20) were drawn to a method of using a camouflage wrap and the claims of Group III (claims 21-24) were drawn to a method of making a camouflage wrap. Since elected claims 1-13 drawn to a camouflage wrap should be allowable in view of the remarks herein, Applicant respectfully requests rejoinder of claims 14-24 directed to the process of making and the process of using the camouflage wrap of claim 1. This request for rejoinder is being made pursuant to MPEP §821.04(b).

Applicant : Geoffrey H. Gorres
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CONCLUSION

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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M. Angela Parsons

M. Angela Parsons, Ph.D.

Reg. No. 44,282

Fish & Richardson P.C., P.A.
60 South Sixth Street, Suite 3300
Minneapolis, MN 55402
Telephone: (612) 335-5070
Facsimile: (612) 288-9696

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